



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 120	Senate Amendments 1 (and Senate Amendments 1 and 2 to Senate Amendment 1) and 2 and Assembly Amendment 3
<i>Memo published:</i> March 11, 2004 <i>Contact:</i> Richard Sweet, Senior Staff Attorney (266-2982)	

Senate Bill 120 was introduced by the Joint Legislative Council on the recommendation of the Special Committee on the Public Health System's Response to Terrorism and Public Health Emergencies.

Senate Bill 120 does the following: (1) creates a 17-member Public Health Council in the Department of Health and Family Services (DHFS), with specified types of members; (2) requires the state to reimburse local health departments for expenses in quarantining a person outside his or her home during a declared public health emergency; (3) establishes a statewide system of mutual aid for emergency management programs, emergency medical services programs, fire departments, and local health departments; (4) requires use of the incident command system (ICS) in managing emergencies and training of specified personnel in the use of ICS; (5) amends the statute that creates an exemption from liability for persons acting during a declared emergency to also include persons acting under the direction of DHFS or a local health department that is an agent of DHFS during a declared public health emergency; and (6) prohibits threats to release chemical, biological, or radioactive substances.

Senate Amendment 1 makes the following changes to the bill:

1. The amendment inserts references to "federally recognized American Indian tribes or bands" in provisions of the bill that deal with membership of the Public Health Council, mutual aid, immunity from liability, and reimbursement of quarantine expenses.

2. Under the provisions of the bill dealing with mutual aid, upon request, the personnel of any emergency management program, emergency medical services program, fire department, or local health department may assist the requester within the requester's jurisdiction. The program or department employing the personnel acting in response to the request is responsible for any personnel-related cost.

The amendment modifies the provision of the bill dealing with payment for personnel or equipment costs in mutual aid situations. Under the amendment, if there is an agreement in place under the intergovernmental cooperation statute [s. 66.0301, Stats.] for the payment of the services, the terms of the agreement are to be followed. However, even if there is such an agreement, if the state plan of emergency management is in effect and a request for assistance is made under the plan, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency if the responding agency meets the personnel and equipment requirements in the plan. If there is no intergovernmental cooperation agreement for the payment of those services under s. 66.0301, Stats., the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency.

3. The bill specifies that the state plan of emergency management (which is developed by the Adjutant General, with the advice of DHFS, and subject to approval by the Governor) must require the use of ICS by all emergency response agencies during declared emergencies or in any other multi-jurisdictional or multi-agency emergency response. The amendment modifies this to require that the state plan of emergency management must specify equipment or personnel standards and must specify the type of ICS to be used.

4. The amendment deletes the provision of the bill that penalizes threats to release chemical, biological, or radioactive substances. (This conduct was already prohibited by 2003 Wisconsin Act 104, which took effect on December 30, 2003.)

Senate Amendment 1 to Senate Amendment 1 modifies the provisions of the amendment that relate to mutual aid. Senate Amendment 1 refers to agreements under the intergovernmental cooperation statute. The amendment to the amendment adds a reference to “any other agreements between the parties.”

Senate Amendment 2 to Senate Amendment 1 also modifies the provisions of the amendment that relate to mutual aid. In the provisions of the amendment that specify that the requesting agency is responsible for personnel or equipment costs of the responding agency in certain circumstances, the amendment to the amendment adds “if the responding agency requests payment of those costs.”

Senate Amendment 2 increases the size of the Public Health Council from 17 members to 23 members.

Assembly Amendment 3 modifies the provisions of the engrossed bill that relate to mutual assistance to create three provisions on mutual assistance: (1) a provision that applies when there is no state of emergency declared by the Governor and that relates only to services of local health departments; (2) a provision that applies when there is no state of emergency declared by the Governor and that relates only to services of fire departments; and (3) a provision that applies only during a state of emergency declared by the Governor and that relates to services of emergency management programs, emergency medical services programs, fire departments, and local health departments.

The first and second provisions relate to mutual assistance involving *local health departments* and *fire departments*. These provisions do not apply during a state of emergency declared by the Governor, since those situations are governed by the provision described in the next paragraph. Under the amendment, upon the request of a local health department, the personnel of any other local health

department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision. Also, upon the request of a fire department, the personnel of any other fire department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision. If a request for assistance is made under either of these provisions, payment for the requested services is made by one of the following methods: (1) if there is an agreement between the parties under the intergovernmental cooperation statute, or any other agreement between the parties, for the payment of services, the terms of the agreement are to be followed; or (2) if there is no such agreement, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency if the responding agency requests payment of those costs.

The third provision, which relates to mutual assistance during a *state of emergency declared by the Governor*, states that upon the request of a city, village, town, or county, or a person acting under an incident command system, the personnel of any emergency management program, emergency medical services program, fire department, or local health department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision. If a request for assistance is made under this provision, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency to the extent that federal, state, and other third-party reimbursement is available if: (1) the responding agency meets personnel and equipment requirements in the state plan of emergency management; and (2) the responding agency requests payment of those costs.

Legislative History

Senate Amendment 1 to Senate Bill 120 was introduced by the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform. On December 23, 2003, that committee recommended adoption of the amendment, and passage of the bill as amended, both by votes of Ayes 5, Noes 0.

Senate Amendment 1 to Senate Amendment 1 was introduced by the Joint Committee on Finance. On February 4, 2004, that committee recommended adoption of Senate Amendment 1 to Senate Amendment 1 by a vote of Ayes 16, Noes 0; adoption of Senate Amendment 1 by a vote of Ayes 14, Noes 2; and passage of the bill as amended by a vote of Ayes 15, Noes 1.

Senate Amendment 2 to Senate Amendment 1 and Senate Amendment 2 were introduced by Senator Ronald Brown. On March 2, 2004, the Senate adopted Senate Amendments 1 and 2 to Senate Amendment 1, Senate Amendment 1, and Senate Amendment 2, all by voice votes; and passed the bill as amended by a vote of Ayes 29, Noes 2.

Assembly Amendment 3 was introduced by Representative J.A. Hines. On March 10, 2004, the Assembly adopted the amendment, and concurred in the bill as amended, both by voice votes.

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